IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

FRIDAY, THE 8TH JUNE 2007 / 18TH JYAISHTA 1929

WP(C).No. 178 of 2007(U)

CRIME NO. 491/05 OF PAVARATY POLICE STATION

PETITIONER:

SUBAIDA V.M.,
W/O.SHAMSUDEEN, AGED 38 YEARS, RESIDING AT
MATHILAKATHUVEETTIL, THIRUNELLOOR P.O.,
POOVATHOOR, THRISSUR.

BY ADV. SRI.A.X.VARGHESE
SRI.A.V.JOJO

RESPONDENTS:

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1. STATE OF KERALA,
REP.BY SECRETARY OF HOME AFFAIRS,
SECRETARIAT, THIRUVANANTHAPURAM.

2. DIRECTOR GENERAL OF POLICE,
THIRUVANANTHAPURAM.

3. SUPERINTENDENT OF POLICE,
THRISSUR.

BY PUBLIC PROSECUTOR SRI. GIKKU JACOB

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 08/06/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

R. BASANT, J.

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W.P.C.No. 178 of 2007 U

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Dated this the 8th day of June, 2007

JUDGMENT

The petitioner is the mother of a deceased person by name Shanif. He was a young person in his early 20s. His body was allegedly found in the regulator of a canal. A crime under the caption "unnatural death" was registered and investigation/enquiry was conducted under Section 174 Cr.P.C. The police have come to the conclusion that it was an accidental death due to drowning. The petitioner is dissatisfied with the nature of investigation/enquiry conducted as also the conclusion reached.

2. The petitioner has various reasons to advance to show that a proper investigation has not been conducted. The deceased had some injuries. They have not been properly enquired into. His body was found at a place where there was no sufficient water to result in any drowning. The deceased is said to be a person addicted to liquor. But his mother does not accept the same. According to the petitioner the deceased had certain persons inimical towards him in the locality. No proper investigation in that direction has been

conducted. According to the petitioner, the deceased was found using a mobile phone shortly prior to his death at the scene of death. That mobile phone was not traced by the police. It is the case of the petitioner that the said mobile phone, without the sim card in it, was made available by some local person. That lead was also not pursued by the police. In these circumstances the petitioner prays that a further investigation may be directed to be conducted by a competent official. This in short is the contention raised by the petitioner.

3. The respondent has filed a statement. But the learned Prosecutor, after discussions at the Bar and after further discussions with the police, today comes forward with a submission that the police is willing to conduct a further investigation into the matter. It is true that the mobile phone has not been traced by the police, even though there is material to show that the deceased was found using the mobile phone shortly prior to the time of the alleged accident, in which he met with his death.

4. Having gone through all the relevant inputs, I am certainly persuaded to accept the request of the police for permission to conduct a further investigation into the matter. The investigation must be entrusted to a competent senior official of the police to be chosen by the

third respondent, who shall continue the investigation in accordance with law after obtaining the requisite leave under Section 173(8) Cr.P.C.

5. This Writ Petition is accordingly allowed. The third respondent shall within 30 days from this date issue appropriate direction to a Senior police officer, not below the rank of a Dy.S.P., to conduct further investigation in accordance with law. Copy of that order shall be served on the petitioner herein also for her information and appropriate further action.

(R. BASANT)
Judge

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